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In re Application of :
HORIBA et al. :
Application No.: 10/518,822 :
PCT No.: PCT/JP03/07899 : DECISION
Int. Filing Date: 20 June 2003 :
Priority Date: 21 June 2002 :
Attorney Docket No.: ADACHIP265US :
For: CATHETER :
:

This decision is in response to applicants' "Request for Corrected Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 11 July 2005, which is being treated as a Petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 20 December 2004, applicant timely filed a request to enter into the national stage under 35 U.S.C. 371 along with, among other things, the appropriate basic national filing fee, a translation of the international application, and a preliminary amendment.

On 31 May 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 09 June 2005, applicants filed a "Response to Notification of Missing Parts of Application - Filing Date Granted" which was accompanied by: a copy of the declaration and a postcard receipt dated 13 January 2005.

On 28 June 2005, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 15 October 2003. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 09 June 2005.

On 11 July 2005, applicants filed a "Request for Corrected Filing Date."

DISCUSSION

The actual filing date of the present application is considered to be the international filing date, 20 June 2003. The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) Applicants state in their present request that a declaration and power of attorney was received at the United States Patent and Trademark Office on 13 January 2005. A review of the present application reveals that the declaration and power of attorney filed 13 January 2005 is not located therein. Section 503 of the Manual of Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The accompanying copy of the post card receipt identifies the application by applicant, application number, and docket number. The receipt itemizes a declaration and a check in the amount of \$65. The receipt is stamped "Rec'd PCT/PTO 13 January 2005" across its face and is sufficient to indicate that the combined declaration and power of attorney was in fact received in the Office on 13 January 2005. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 13 January 2005. Therefore, applicants' request to correct the Filing Receipt and Notice of Acceptance is granted.

CONCLUSION

Applicants' request under 37 CFR 1.181 for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 28 June 2005 is hereby **VACATED**.

The application has an international filing date of 20 June 2003 under 35 U.S.C. 363 and a date of **13 January 2005** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **13 January 2005** under 35 U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **13 January 2005**.

Thereafter, this application will be referred to its appropriate Art Unit.

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